

UTAH

UTAH CODE

Title 53. Public Safety Code

Chapter 5. Regulation of Weapons

53-5-701. Short title. This part is known as the "Concealed Weapon Act."

53-5-702. Definitions.

(1) As used in this part:

(a) "Board" means the Concealed Weapon Review Board created in Section 53-5-703;

(b) "Commissioner" means the commissioner of the Department of Public Safety; and ...

(2) The definitions in Section 76-10-501 apply to this part.

53-5-704. Division duties - Permit to carry concealed firearm - Certification for concealed firearms instructor - Requirements for issuance - Violation - Denial, suspension, or revocation - Appeal procedure.

(1) The division or its designated agent shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application and upon proof that the person applying is of good character. The permit is valid throughout the state, without restriction except as provided by Section 53-5-710:

(a) for two years; or

(b) for five years for permits issued or renewed on or after May 1, 1998. ...

(17) The commissioner may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Title 76. Utah Criminal Code

Chapter 10. Offenses Against Public Health, Safety, Welfare, and Morals

76-10-500. Uniform law.

(1) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. Except as specifically provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

(a) prohibited from owning, possessing, purchasing, selling, transferring, transporting, or keeping any firearm at his place of residence, property, business, or in any vehicle lawfully in his possession or lawfully under his control; or

(b) required to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(2) This part is uniformly applicable throughout this state and in all its political subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities. Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.

76-10-501 Definitions. As used in this part:

(1)(a) "Antique firearm" means any firearm:

(i)(A) with a matchlock, flintlock, percussion cap, or similar type of ignition system; and

(B) that was manufactured in or before 1898; or

(ii) that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) any weapon that incorporates a firearm frame or receiver;

(ii) any firearm that is converted into a muzzle loading weapon; or

(iii) any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii) (A), (B), or (C).

(2)(a) "Concealed dangerous weapon" means a dangerous weapon that is covered, hidden, or secreted in a manner that the public would not be aware of its presence and is readily accessible for immediate use.

(b) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

(3) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun through the division or the local law enforcement agency where the firearms dealer conducts business.

(4) "Curio or relic firearm" means any firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b)(i) was manufactured at least 50 years prior to the current date; and

(ii) is not a replica of a firearm described in Subsection (4)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 178.11.

(5)(a) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether a knife, or any other item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon:

(i) the character of the instrument, object, or thing;

(ii) the character of the wound produced, if any;

(iii) the manner in which the instrument, object, or thing was used; and

(iv) the other lawful purposes for which the instrument, object, or thing may be used.

(b) "Dangerous weapon" does not include any explosive, chemical, or incendiary device as defined by Section 76-10-306.

(6) "Dealer" means every person who is licensed under crimes and criminal procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(7) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section 53-10-103.

(8) "Enter" means intrusion of the entire body.

(9)(a) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

(10) "Firearms transaction record form" means a form created by the division to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

(11) "Fully automatic weapon" means any firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(12)(a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

(13) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(14) "Prohibited area" means any place where it is unlawful to discharge a firearm.

(15) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(16) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(17) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(18) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(19) "State entity" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(20) "Violent felony" means the same as defined in Section 76-3-203.5.

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from a secure facility as defined in Section 62A-7-101; or

(iv) within the last ten years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5.

(b) A Category II restricted person is a person who:

(i) has been convicted of or is under indictment for any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) is an alien who is illegally or unlawfully in the United States;

(ix) has been dishonorably discharged from the armed forces; or

(x) has renounced his citizenship after having been a citizen of the United States.

(2) A Category I restricted person who purchases, transfers, possesses, uses, or has under his custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who purchases, transfers, possesses, uses, or has under his custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

76-10-505.5. Possession of a dangerous weapon, firearm, or sawed-off shotgun on or about school premises - Penalties.

(1) A person may not possess any dangerous weapon, firearm, or sawed-off shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on or about school premises.

(2)(a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or sawed-off shotgun on or about school premises is a class A misdemeanor.

(3) This section applies to any person, except persons authorized to possess a firearm as provided under Sections 53-5-704, 53-5-705, 53A-3-502, 76-10-511, 76-10-523, Subsection 76-10-504(2), and as otherwise authorized by law.

(4) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

76-10-509. Possession of dangerous weapon by minor.

(1) A minor under 18 years of age may not possess a dangerous weapon unless he:

(a) has the permission of his parent or guardian to have the weapon; or

(b) is accompanied by a parent or guardian while he has the weapon in his possession.

(2) Any minor under 14 years of age in possession of a dangerous weapon shall be accompanied by a responsible adult.

(3) Any person who violates this section is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

76-10-509.4. Prohibition of possession of certain weapons by minors.

(1) A minor under 18 years of age may not possess a handgun.

(2) Except as provided by federal law, a minor under 18 years of age may not possess the following:

(a) a sawed-off rifle or sawed-off shotgun; or

(b) a fully automatic weapon.

(3) Any person who violates Subsection (1) is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(4) Any person who violates Subsection (2) is guilty of a third degree felony.

76-10-509.5. Penalties for providing certain weapons to a minor.

(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section 76-10-509.4 is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(2) Any person who transfers in violation of applicable state or federal law a sawed-off rifle, sawed-off shotgun, or fully automatic weapon to a minor is guilty of a third degree felony.

76-10-509.6. Parent or guardian providing firearm to violent minor.

(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or permit the possession of a firearm by, any minor who has been convicted of a violent felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.

(2) Any person who violates this section is guilty of:

(a) a class A misdemeanor upon the first offense; and

(b) a third degree felony for each subsequent offense.

76-10-509.7. Parent or guardian knowing of minor's possession of dangerous weapon.

Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section 76-10-509 or a firearm in violation of Section 76-10-509.4 and fails to make reasonable efforts to remove the firearm from the minor's possession is guilty of a class B misdemeanor.

76-10-509.9. Sales of firearms to juveniles.

(1) A person may not sell any firearm to a minor under 18 years of age unless the minor is accompanied by a parent or guardian.

(2) Any person who violates this section is guilty of a third degree felony.

76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions. The provisions of Section 76-10-509 and Subsection 76-10-509.4(1) regarding possession of handguns by minors shall not apply to any of the following:

(1) Patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters.

(2) Any person in attendance at a hunter's safety course or a firearms safety course.

(3) Any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law.

(4) Any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition.

(5) Any minor under 18 years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law.

(6) Any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting.

(7) Any person traveling to or from any activity described in Subsection (2), (3), (4), (5), or (6) with an unloaded firearm in his possession.

76-10-520. Number or mark assigned to pistol or revolver by Department of Public Safety. The Department of Public Safety upon request may assign a distinguishing number or mark of identification to any pistol or revolver whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the Department of Public Safety has been destroyed or obliterated.

76-10-521. Unlawful marking of pistol or revolver.

(1) Any person who places or stamps on any pistol or revolver any number except one as-

signed to it by the Department of Public Safety is guilty of a class A misdemeanor.

(2) This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the Department of Public Safety, nor prevent any manufacturer from placing in the ordinary course of business the name of the make, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

76-10-522. Alteration of number or mark on pistol or revolver. Any person who changes, alters, removes, or obliterates the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Public Safety, on any pistol or revolver, without first having secured written permission from the Department of Public Safety to make the change, alteration, or removal, is guilty of a class A misdemeanor.

76-10-523. Persons exempt from weapons laws.

(1) This part and Title 53, Chapter 5, Part 7, Concealed Weapon Act, do not apply to any of the following:

- (a) a United States marshal;
- (b) a federal official required to carry a firearm;
- (c) a peace officer of this or any other jurisdiction;
- (d) a law enforcement official as defined and qualified under Section 53-5-711;
- (e) a judge as defined and qualified in Section 53-5-711;
- (f) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise; or
- (g) a nonresident traveling in or through the state, provided that any firearm is:
 - (i) unloaded; and
 - (ii) securely encased as defined in Section 76-10-501.

(2) The provisions of Subsections 76-10-504(1)(a), (1)(b), and Section 76-10-505 do not apply to any person to whom a permit to carry a concealed firearm has been issued:

- (a) pursuant to Section 53-5-704; or
 - (b) by another state or county.
- (3)(a) Notwithstanding Subsection (2) a concealed firearm permit issued by another state or county is only valid in this state for 60 consecutive days.
- (b) In order to carry a concealed firearm, a person that remains in the state for longer than 60 consecutive days shall obtain a permit pursuant to Section 53-5-704.

76-10-524. Purchase of firearms in contiguous states pursuant to federal law. This part will allow purchases of firearms and ammunition by residents in contiguous states pursuant to the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B, no. 3.

76-10-526. Criminal background check prior to purchase of a firearm - Fee - Exemption for concealed firearm permit holders.

(1) A criminal background check required by this section shall only apply to the purchase of a handgun until federal law requires the background check to extend to other firearms.

(2) At the time that federal law extends the criminal background check requirement to other firearms, the division shall make rules to extend the background checks required under this section to the other firearms.

(3) For purposes of this section, "valid permit to carry a concealed firearm" does not include a

temporary permit issued pursuant to Section 53-5-705.

(4) To establish personal identification and residence in this state for purposes of this part, a dealer shall require any person receiving a firearm to present:

- (a) one photo identification on a form issued by a governmental agency of the state; and
 - (b) one other documentation of residence which must show an address identical to that shown on the photo identification form.
- (5) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.
- (6) Any person, except a dealer, purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the division. The form shall also contain the following information:
- (a) the dealer identification number;
 - (b) the name and address of the person receiving the firearm;
 - (c) the date of birth, height, weight, eye color, and hair color of the person receiving the firearm; and
 - (d) the Social Security number or any other identification number of the person receiving the firearm.

(7)(a) The dealer shall send the form required by Subsection (6) to the division immediately upon its completion.

(b) No dealer shall sell or transfer any firearm to any person until the dealer has provided the division with the information in Subsection (6) and has received approval from the division under Subsection (9).

(8) The dealer shall make a request for criminal history background information by telephone or other electronic means to the division and shall receive approval or denial of the inquiry by telephone or other electronic means.

(9) When the dealer calls for or requests a criminal history background check, the division shall:

- (a) review the criminal history files, including juvenile court records, to determine if the person is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;
- (b) inform the dealer that:
 - (i) the records indicate the person is so prohibited; or
 - (ii) the person is approved for purchasing, possessing, or transferring a firearm;
- (c) provide the dealer with a unique transaction number for that inquiry; and
- (d) provide a response to the requesting dealer during the call for a criminal background, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the division, the division shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(10) The division shall not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request if the division determines that the person receiving the gun is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law. However, the division shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(11) If the criminal history background check discloses information indicating that the person attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the division shall inform the law enforce-

ment agency in the jurisdiction where the person resides.

(12) If a person is denied the right to purchase a firearm under this section, the person may review his criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(13) The division shall make rules as provided in Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the division pursuant to this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(14)(a) All dealers shall collect a criminal history background check fee which is \$7.50. This fee remains in effect until changed by the division through the process under Section 63-38-3.2.

(b) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the division by the last day of the month following the sale of a firearm. The division shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(15) A person with a concealed firearm permit issued pursuant to Title 53, Chapter 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

- (a) the person presents his concealed firearm permit to the dealer prior to purchase of the firearm; and
- (b) the dealer verifies with the division that the person's concealed firearm permit is valid.

6-10-527. Penalties.

(1) This section shall apply only to a handgun until federal law requires the background check in Section 76-10-526 to extend to other firearms at which time this section shall also apply to those firearms.

(2) A dealer is guilty of a class A misdemeanor who willfully and intentionally:

- (a) requests, obtains, or seeks to obtain criminal history background information under false pretenses; or
- (b) disseminates criminal history background information.

(3) A person who purchases or transfers a firearm is guilty of a felony of the third degree who willfully and intentionally makes a false statement of the information required for a criminal background check in Section 76-10-526.

(4) A dealer is guilty of a felony of the third degree if the dealer willfully and intentionally sells or transfers a firearm in violation of this part.

(5) A person is guilty of a felony of the third degree who purchases a firearm with the intent to:

- (a) resell or otherwise provide a firearm to any person who is ineligible to purchase or receive from a dealer a firearm; or
- (b) transport a firearm out of this state to be resold to an ineligible person.

76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.

(1) Any person who carries a dangerous weapon while under the influence of alcohol or a controlled substance as defined in Section 58-37-2 is guilty of a class B misdemeanor. Under the influence means the same level of influence or blood or breath alcohol concentration as provided in Section 41-6-44.

(2) It is not a defense to prosecution under this section that the person:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

[Current through 2002 6th Special Session]